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**Early Learning & Children's Services  
Committee**

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**HB 2959**

**Brief Description:** Concerning child fatality reviews in child welfare cases.

**Sponsors:** Representatives Kagi and Kenney; by request of Department of Social and Health Services.

**Brief Summary of Bill**

- Requires the Department of Social and Health Services (DSHS) to consult with the Office of the Family and Children's Ombudsman in determining whether a child fatality review (CFR) is required in a case where it can not be determined whether the child's death was the result of suspected child abuse or neglect.
- Requires that CFR teams are comprised of persons with no previous involvement in the case who have professional expertise relevant to the dynamics of the case to be reviewed.
- Expressly permits the redaction of confidential information from CFR reports that are subject to public disclosure.
- Clarifies the DSHS's right to access case information from a supervising agency in the case of a death of a child being provided child welfare services under contract with the DSHS.
- Limits the scope of examination in civil and administrative proceedings of a DSHS employee who convenes a CFR.
- Limits admissibility in civil and administrative proceedings of certain documentation prepared for CFR or review of a near fatality.

**Hearing Date:** 1/28/10

**Staff:** Sydney Forrester (786-7120).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Child Fatality Reviews.

State law requires the Department of Social and Health Services (DSHS) to conduct a child fatality review (CFR) of an unexpected death of a child who, within the last 12 months, had been in the custody of, or receiving services from, the DSHS. At the conclusion of the CFR, the DSHS must issue a report on the results within 180 days of the date of the child's death. The Governor may extend the due date. The DSHS must distribute the CFR report to the appropriate Legislative committees and must post all CFR reports to a public website maintained by the DSHS. In the case of a near fatality, the DSHS may conduct a review.

### The Office of the Family and Children's Ombudsman.

The Office of the Family and Children's Ombudsman (OFCO) was created in 1996 to protect children and parents from harmful agency action or inaction, and to make agency officials and state policy makers aware of system-wide issues in the child protection and child welfare system. The OFCO is part of the Governor's Office and operates independently from the DSHS and other state agencies, acting as a neutral fact-finder, not as an advocate.

The OFCO's responsibilities include investigating complaints related to child protective services or child welfare services, monitoring the procedures used by the DSHS in delivering family and children's services, and providing information about the rights and responsibilities of individuals receiving family and children's services and the procedures for providing those services. To perform these duties the OFCO has authority:

- to interview children in state care;
- to access, inspect, and copy all records, information, or documents in the DSHS's possession that the OFCO considers necessary to conduct an investigation; and
- to have unrestricted on-line access to the case and management information system (CAMIS) operated by the DSHS.

The OFCO is required to issue an annual report to the Legislature on the implementation of the recommendations from reviews of child fatalities.

The DSHS must notify the OFCO:

- in the event of a near-fatality of a child who is, or was within the past 12 months, in the care of or receiving services from the DSHS; and
- whenever a referral of child abuse or neglect constitutes the third founded referral on the same child or family within a 12-month period.

### Autopsy Report.

Reports of autopsies or post mortem examinations are confidential and are released only by statutory authority. The Secretary of the DSHS is not presently authorized to receive a report of an autopsy for purposes of conducting a required CFR.

### Supervising Agency.

In 2009 the Legislature enacted Second Substitute House Bill 2106, which requires the DSHS to contract in two demonstration sites for the provision of child welfare case management services. The entities with whom the DSHS will contract are deemed to be supervising agencies for purposes of state and federal laws.

## **Summary of Bill:**

### Child Fatality Reviews and Near Fatality Reviews.

The DSHS must assure that persons assigned to a CFR team have no previous involvement in the child's case and that they have professional expertise pertinent to the dynamics of the case under review. The DSHS is expressly authorized to redact confidential information contained in a CFR report according to existing state and federal laws protecting the privacy of victims of child abuse and neglect.

A reference to *supervising agency* is added to the statute governing CFRs for the purposes of including children served by supervising agencies in those for whom a CFR would be required if services were provided within 12 months of a child's death. The DSHS and the CFR team is granted access to the all relevant records in the possession of the supervising agency.

In the case of a child fatality where it is not clear whether the death resulted from suspected child abuse or neglect, the DSHS must consult with the OFCO in determining whether a CFR is required.

Employees of the DSHS can not be questioned in a civil or administrative proceeding relating to the work of the CFR team, the incident under review, the employees statements, thoughts, impressions or those of the CFR team members or others who provided information to the CFR. Documents prepared for a CFR team also are inadmissible in a civil or administrative proceeding, except the limitation does not apply to licensing or disciplinary proceedings relating to the DSHS's efforts to revoke or suspend a license based on allegations of misconduct or unprofessional conduct connected with a near fatality or a fatality being reviewed by a CFR team.

### Autopsy Report.

The Secretary of the DSHS is authorized to receive a report of an autopsy for purposes of conducting a required CFR.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.